

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

No. 01-4031

TOMMY RAY MOORE,
Defendant-Appellant.

Appeal from the United States District Court
for the Western District of North Carolina, at Statesville.
Richard L. Voorhees, District Judge.
(CR-98-123-V)

Submitted: May 31, 2001

Decided: June 12, 2001

Before WILKINS, TRAXLER, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Tommy Ray Moore, Appellant Pro Se. Gretchen C.F. Shappert,
Assistant United States Attorney, Charlotte, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit. See
Local Rule 36(c).

OPINION

PER CURIAM:

Tommy Ray Moore appeals his conviction entered on his guilty plea to his role in a conspiracy to distribute cocaine, cocaine base, and marijuana in violation of 21 U.S.C. § 846 (1994). In his brief on appeal, Moore suggests that counsel failed to provide constitutionally sufficient assistance during sentencing. See Strickland v. Washington, 466 U.S. 668, 688 (1984). Moore also contends that the district court erred in failing to make the required findings under Fed. R. Crim. P. 32(c)(1) with respect to the quantity of marijuana used as relevant conduct to determine Moore's sentence. Because we find Moore's assignments of error to be without merit, we affirm Moore's conviction and sentence.

With respect to Moore's claim that his counsel did not provide him with constitutionally adequate assistance during sentencing, see Strickland, 466 U.S. at 688, such a claim is only appropriate for direct appeal where counsel's ineffectiveness is apparent from the face of the record. See United States v. Williams, 977 F.2d 866, 871 (4th Cir. 1992). Because there is no error of this magnitude discernible from the record, we note that Moore's allegations are better suited for a motion under 28 U.S.C.A. § 2255 (West Supp. 2000). See United States v. DeFusco, 949 F.2d 114, 120 (4th Cir. 1991). In addition, we find that the district court fully satisfied the requirements of Rule 32(c)(1) by expressly adopting the findings of the presentence report. See United States v. Walker, 29 F.3d 908, 911 (4th Cir. 1994).

Moore's conviction and sentence are affirmed. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED